

APPEAL NO. 021980
FILED SEPTEMBER 9, 2002

This appeal arises pursuant to the Texas Workers' Compensation Act, TEX. LAB. CODE ANN. § 401.001 *et seq.* (1989 Act). A contested case hearing was held on July 2, 2002. The hearing officer determined that (1) the appellant (claimant) sustained a repetitive trauma injury in the form of mild right carpal tunnel syndrome and shoulder bursitis; (2) that the claimant did not have disability beginning May 28 and continuing through July 14, 2001; (3) that the date the claimant knew or should have known that the injury was related to her work was not later than _____; (4) that the claimant did not timely notify the employer of the claimed injury, and the respondent (carrier) is relieved from liability because of the claimant's failure to timely notify her employer pursuant to Section 409.001; (5) that the claimant did not file a claim for benefits with the Texas Workers' Compensation Commission (Commission) until December 10, 2001, a period of more than one year after the date the claimant knew or should have known that her injury was work related, and the carrier is relieved from liability because of the claimant's failure to timely file a claim for compensation with the Commission within one year of the injury as required by Section 409.003; and (6) that the claimant is not barred from pursuing Texas Workers' Compensation benefits because of an election to receive benefits under her group health/disability coverage. The claimant appealed determinations 1 through 5 on sufficiency grounds. The carrier responded, asserting first that the appeal was untimely, but otherwise urging affirmance. Determination 6 is unappealed and has become final. Section 410.169.

DECISION

Affirmed.

As to the carrier's assertion that the claimant's appeal is untimely, we refer the carrier to Section 410.202(d), amended effective June 17, 2001, to provide that Saturdays, Sundays, and holidays listed in Section 662.003, Government Code, are not included in the computation of the time in which a request for an appeal must be filed. The assertion of untimeliness is without merit.

We have reviewed the complained-of determinations and find that the hearing officer's Decision and Order is supported by sufficient evidence to be affirmed in its entirety. The issues presented questions of fact for the hearing officer. The hearing officer is the sole judge of the weight and credibility of the evidence. Section 410.165(a); Texas Employers Ins. Ass'n v. Campos, 666 S.W.2d 286 (Tex. App.-Houston [14th Dist.] 1984, no writ). There was conflicting evidence presented on the disputed issues. It was for the hearing officer, as the trier of fact, to resolve the conflicts and inconsistencies in the evidence and to determine what facts had been established. Garza v. Commercial Ins. Co., 508 S.W.2d 701 (Tex. Civ. App.-Amarillo 1974, no writ). Nothing in our review of the record reveals that the hearing officer's determinations are

so contrary to the great weight and preponderance of the evidence as to be clearly wrong or manifestly unjust. As such, no sound basis exists for us to reverse those determinations on appeal. Cain v. Bain, 709 S.W.2d 175, 176 (Tex. 1986).

We affirm the decision and order of the hearing officer.

The true corporate name of the insurance carrier is **PACIFIC EMPLOYERS INSURANCE COMPANY** and the name and address of its registered agent for service of process is

**JAVIER GONZALEZ
3421 WEST WILLIAM CANNON DRIVE
SUITE 131, PMB #113
AUSTIN, TEXAS 78745.**

Michael B. McShane
Appeals Judge

CONCUR:

Judy L. S. Barnes
Appeals Judge

Susan M. Kelley
Appeals Judge